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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,989	11/08/2005	Maurice Gerardus Maria Van Giezen	8459.005.US0000	8455

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EXAMINER	
TOLAN, EDWARD THOMAS	

ART UNIT	PAPER NUMBER
3725	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/501,989	VAN GIEZEN, MAURICE GERARDUS MARIA	
	Examiner	Art Unit	
	EDWARD TOLAN	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7-21-2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

The restriction of the Previous Office Action has been withdrawn, an Office Action on claims 1-21 follows.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 17 and 18, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5,11-14,19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gabbianelli et al. (6,474,534) in view of Ross et al. (5,562,799).

Gabbianelli discloses a method of hydroforming (column 2, lines 50-53, column 5, lines 54-65) a circumferential wall of tailor welded tubular blanks (30,32)(52,54)(90). The blanks (30,32) have different thicknesses (column 4, lines 20-21). A compound blank (100) for two or more tubular structures is shown in figure 5. Different shaped open ended tubular structures are formed (column 6, lines 38-44). Gabbianelli does not disclose providing the open ended structure with a lid to form a closed container. Ross teaches sealing a thermoplastic lid (15) on a can body (21). It would have been obvious to one skilled in the art at the time of invention to provide the tubular structure of Gabbianelli with a lid as taught by Ross in order to create a container. When a peelable lid is provided the container is single use. Regarding claims 11-14, the skilled artisan would have been motivated to choose a known size and wall thickness for a container to hold a specified pressure, Official Notice is taken of the fact that containers are known to be between 5 and 30 liters and are pressurized

Claims 6-8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gabbianelli in view of Ross and further in view of Gerhard (4,941,583). Gabbianelli in view of Ross does not disclose a tie rod. Gerhard teaches a hollow tie rod (14) that is attached to ends (12,13) of a pressure tank. It would have been obvious to one skilled in the art at the time of invention to provide Gabbianelli in view of Ross with a tie rod as taught by Gerhard in order to give structural rigidity to the container.

Claims 9,15,17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gabbianelli in view of Ross and further in view of Brejcha et al. (3.358,487). Gabbianelli in view of Ross does not disclose ribs and indicia on the container. Brejcha

teaches that it is known to provide a beer barrel shaped hydroformed container (54) with ribs (92) for handling and indicia (94). It would have been obvious to one skilled in the art at the time of invention to provide Gabbianelli in view of Ross with ribs and inidicia as taught by Brejcha in order to provide a handling aid and company symbols on the container.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gabbianelli in view of Ross and further in view of La Croce (3,875,651). Gabbianelli in view of Ross does not disclose releasably secured top and base. La Croce teaches a plastic lid (24) that is releasably secured to a can (50) by a clip (22). It would have been obvious to one skilled in the art at the time of invention to provide Gabbianelli in view of Ross with a releasable top as taught by La Croce for an easy opening top.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gabbianelli in view of Ross and further in view of Maxwell (4049122). Gabbianelli in view of Ross does not disclose a nestable container. Maxwell teaches a pressurized container manufactured for stacking. It would have been obvious to one skilled in the art at the time of invention to provide the container of Gabbianelli in view of Ross with a tapered shape as taught by Maxwell in order to nest the containers for shipment.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frutin (5,980,959) teaches pressurized vessels ranging from

single shot to beer keg sized. In column 6, lines 35-40 Frutin teaches a container pressurized to 90-100 psi, (about 6 bar).

/Edward Tolan/

Primary Examiner, Art Unit 3725